

MDR Tracking Number: M5-04-0860-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11/20/03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 11/20/03, therefore the following date(s) of service are not timely: 11/1/02.

The following disputed dates of service were withdrawn by the requestor on March 1, 2004: 12/19/03, 1/2/03, and 2/5/03.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The physical medicine treatments, range of motion measurements treatments, office visits, and kinetic exercises were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service through in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 4th day of March 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

February 26, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor specialized in Occupational Medicine. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The records state that ___ was status post shoulder with postoperative Bankhart reconstruction on 10/21/02. ___ was following the postop labrum reconstruction protocol. The note from that date states, according to ___, the orthopedic surgeon, that a case conference was held with him on that day. He apparently had to repair both the anterior and the posterior aspects of the labrum and capsule with several stitches and Miteks. ___ indicated that this patient had a significant amount of global instability and was very loose. The Physical Therapy Evaluation reports of 10/21/02, 11/1/02, 12/9/02 and 1/8/03 note the progress made by ___ regarding range of motion of the shoulder.

DISPUTED SERVICES

Under dispute is the medical necessity of physical medicine treatments, ROM measurements, office visits and kinetic activities from 11/1/02 through 2/5/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Based on a close review of the reports from physical therapy, the documentation from ___ notes improvement in this patient's range of motion of the right shoulder.

The following range of motion measurements are documented on the therapy notes:

10/21/02: 60° abduction, 75° flexion, and external rotation avoided due to post-op repair
11/11/02: 90° abduction, 90° flexion
12/09/02: 118° abduction, 126° flexion, and 42° external rotation
1/8/03: 136° abduction, 140° flexion, and 80° external rotation

These range of motion measurements document improvement as a result of the physical therapy given. Even though physical therapy documents that she continued with significant decrease in external rotation strength, of significance is the increase in range of motion to the right shoulder with the treatment given.

Therefore, even though physical therapy was apparently started on 10/21/02 and ended on or about 2/7/03, by review of the medical records, ___ benefited from the treatments given. The goal after surgery to a shoulder is to try to return range of motion strength to normal and to return the individual to the previous level of function. Even though strength was still noted to be decreased, range of motion was significantly improved. The reviewer finds that there is medical documentation of the medical necessity of the physical therapy treatments, range of motion measurements, office visits and kinetic exercises for all of the dates in dispute.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,